

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

24 HOUR FITNESS USA, INC., *et al.*,

Petitioners,

v.

MICHAEL MCMAHAON,

Respondent.

Case No. 2:11-CV-01956-KJD-CWH

ORDER

Petitioners' Petition to Compel Arbitration (#1) was filed on December 7, 2011. Federal Rule of Civil Procedure 4(m) requires service of summons and complaint to be made upon a respondent 120 days after the filing of the complaint or petition. The 120 day time period for effecting service of the summons and complaint upon Respondent expired no later than April 5, 2012. On January 24, 2012, Petitioners filed "Proof of Service by Personal Delivery" (#6). The affidavit asserted that the civil cover sheet, certificate of interested parties, petition to compel arbitration and an accompanying declaration were served on what appears to be an attorney. However, the proof of service did not disclose the attorney's relationship to the Respondent. Furthermore, the proof of service did not mention service of a summons.

On May 4, 2012, Petitioners filed a Proposed Summons (#7) which was subsequently issued (#8). The issued summons identified Respondent as the party to be served with an address different

1 than that described in the proof of service (#6). It appears that Petitioners have not yet adequately
2 served Respondent.

3 Accordingly, IT IS HEREBY ORDERED that Petitioners shall have up to and including June
4 28, 2012 to file proof of service of the summons and complaint within the allowed time. If
5 Petitioners fail to respond or to file proof of service within the allowed time, the Court will dismiss
6 the complaint without prejudice against Respondent in accordance with Federal Rule of Civil
7 Procedure 4(m).

8 DATED this 13TH day of June 2012.

9
10 

11 _____
12 Kent J. Dawson
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26